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EXCEPTION

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BEFORE THE ARIZONA CORPORATION COMMISSION

CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

1999 NOV -4 P 1:57

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE
APPLICATION OF TUCSON ELECTRIC
POWER COMPANY FOR APPROVAL
OF ITS PLAN FOR STRANDED COST
RECOVERY AND FOR RELATED
APPROVALS, AUTHORIZATIONS AND
WAIVERS

DOCKET NO. E-01933A-98-0471

IN THE MATTER OF THE FILING OF
TUCSON ELECTRIC POWER
COMPANY OF UNBUNDLED TARIFFS
PURSUANT TO A.A.C. R14-2-1602 ET.
SEQ.

DOCKET NO. E-01933A-97-0772

IN THE MATTER OF THE
COMPETITION IN THE PROVISION OF
ELECTRIC SERVICES THROUGHOUT
THE STATE OF ARIZONA

DOCKET NO. RE-00000C-94-0165

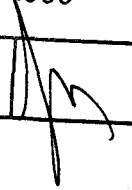
**ASARCO, INCORPORATED, CYPRUS CLIMAX METALS, INC.
AND ARIZONANS FOR ELECTRIC CHOICE AND COMPETITION'S
EXCEPTIONS TO RECOMMENDED OPINION AND ORDER
DATED OCTOBER 26, 1999**

FENNEMORE CRAIG, P.C.

Arizona Corporation Commission

DOCKETED

NOV 04 1999

DOCKETED BY 

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Climax Metals Company and Arizonans for
Electric Choice and Competition

1 Pursuant to AAC R14-3-110B, ASARCO Incorporated, Cyprus Climax Metals
2 Company, and Arizonans for Electric Choice and Competition¹ (collectively referred to
3 herein as "AECC") hereby submit their Exceptions to the Presiding Officers
4 Recommended Opinion and Order ("Recommended Order") dated October 26, 1999.
5 The Recommended Order, if adopted by the Arizona Corporation Commission
6 ("Commission"), will approve the Settlement Agreement (with some modifications),
7 that was entered into between Tucson Electric Power Company ("TEP"), AECC, the
8 Residential Utility Consumer Office ("RUCCO") and the Arizona Community Action
9 Association ("ACAA").

10 There are a number of public benefits to be realized from approval of the TEP
11 Settlement. For example, approval of the TEP Settlement brings the introduction of
12 competition to TEP's service territory by eliminating TEP's on-going legal challenges
13 to the Commission's adoption of the Electric Competition Rules, the Commission's
14 orders approving stranded cost recovery and the issuance of CC&Ns to new market
15 entrants. In place of such litigation, the Commission makes Arizona's second largest
16 public service corporation a zealous advocate of electric deregulation.

17 Energy consumers will benefit from competition in TEP's service territory
18 through greater choice. Following approval of the Settlement, a substantial number
19 of customers in TEP's service territory will have an immediate opportunity to choose
20 an alternative electric service provider. Several Electric Service Providers ("ESPs")

21
22 ¹ Arizonans for Electric Choice and Competition is a coalition of energy consumers in favor
23 of competition and includes Cable Systems International, BHP Copper, Motorola, Chemical
24 Lime, Intel, Honeywell, Allied Signal, Cyprus Climax Metals, Asarco, Phelps Dodge,
25 Homebuilders of Central Arizona, Arizona Mining Industry Gets Our Support, Arizona Food
26 Marketing Alliance, Arizona Association of Industries, Arizona Multihousing Association,
Arizona Rock Products Association, Arizona Restaurant Association, Arizona Retailers
Association, Boeing, Arizona School Board Association, National Federation of Independent
Business, Arizona Hospital Association, Lockheed Martin, Abbot Labs, and Raytheon.

1 have, or are in the process of, obtaining authorization from the Commission to sell
2 competitive energy services in TEP's service territory. Because consumers will select
3 an alternative supplier if they feel that the selection will result in reduced rates for
4 electric utility services, greater choice translates into lower rates for electric utility
5 service. Indeed, the rate freezes provided for in the TEP Settlement provide rate
6 stability promoting competition by allowing ESPs to offer greater choices in the
7 competitive market. On the other hand, for those consumers unable or unwilling to
8 choose competitive services from an ESP, the Settlement offers the guarantee of
9 lower prices for electricity. This follows from the across the board rate decreases for
10 all customers TEP has agreed to in the Settlement.

11 In addition, the TEP Settlement is in the public interest because it is consistent
12 with the Commission's Electric Competition Rules and its final stranded cost order.
13 The Commission has encouraged the various stakeholders to undertake efforts to
14 reach agreement regarding the terms and conditions for opening the incumbent
15 utilities' service territories to competition. The Commission explicitly recognized
16 settlement as a viable option for determining how an affected utility's stranded costs
17 would be determined. (Decision 61677 at 4). Consistent with the stranded cost
18 order's settlement option, TEP and its consumers have agreed to a methodology for
19 determining and collecting stranded costs. Thus, the Settlement furthers the
20 Commission's goal of resolving stranded cost issues on the way to deregulation.

21 AECC's Exceptions will address only the modification relating to "Allocation of
22 Stranded Cost." AECC urges the Commission to delete this section of the
23 Recommended Order (page 7, line 21 through page 9, line 14) in its entirety as the
24 Settlement Agreement already accomplishes the expressed objective that non-
25 contract customers not pay the stranded cost of contract customers. In fact, the
26 Settlement Agreement ensures that no class of customers will pay the stranded costs

1 of any other class of customers. This is accomplished through the design of the CTC
2 which is calculated directly from each customers current rate schedule (after rate
3 reductions) or contract, thereby insuring that no customer is charged more stranded
4 cost than the customer is currently paying under regulated rates. In fact, with the
5 rate reductions incorporated into the Settlement Agreement each non-contract
6 customer will pay less stranded cost than the customer is paying today.

7 The recommended Order states on page 9, lines 2½ through 7½ that:

8 If there have been contracts entered into by TEP subsequent to its
9 last rate case that have resulted in those contract customers paying
10 less stranded costs, then TEP's shareholders should have to absorb
11 those reductions. Similarly, if TEP did not increase the charges to
12 contract customers by the 1.1 percent pursuant to Decision No.
59549, then TEP should absorb these costs. Those amounts, if
any, should be reduced from the stranded cost paid by non-contract
customers."

13 This statement is confusing, because the Settlement Agreement methodology
14 already ensures that TEP's shareholders absorb any rate reductions to contract
15 customers, including any reductions in stranded costs. Consequently, non-contract
16 customers are already held harmless. Under the Settlement Agreement methodology,
17 cost shifting in stranded cost allocation could only occur if some customers rates
18 were to be increased. Clearly this is not the case.

19 The problem with the language in the Proposed Order is that it fails to
20 recognize that the Settlement Agreement resolves the cost shifting issue in its CTC
21 design. That is, the reductions to contract customers are already excluded from the
22 CTC for non-contract customers. Yet, as written, the Recommended Order would
23 have these costs excluded again, i.e., "Those amounts, if any, should be reduced
24 from the Stranded Cost paid by non-contract customers." Page 9, lines 6½ - 7½.
25 Such a treatment would constitute a double counting of the exclusion which AECC
26 believes would deprive the parties of the benefit of their bargain. Further, AECC

1 believes that such a double counting is not the intent of the Commission.

2 Under the Settlement Agreement and in accordance with the Commission's
3 Electric Competition Rules and Final Order on stranded costs, contract customers are
4 paying their fair share of stranded costs. The modification of the Settlement
5 Agreement as discussed in the "Allocation of Stranded Cost" section of the
6 Recommended Order will have the effect of reducing the amount of stranded costs to
7 be recovered by TEP. This could cause TEP to withdraw from the Settlement
8 Agreement. Such an event would be extremely unfortunate because of the delay
9 that would result in bringing about Competitive Retail Access in Arizona.

10 For the reasons set forth herein, AECC urges the Commission to delete the
11 section on "Allocation of Stranded Costs" which begins on page 7 at line 21 and
12 ends on page 9 at line 14 and the "Ordering Paragraph" on Page 25, lines 13 through
13 16.

14 With the exception of the modification discussed above, AECC urges the
15 Commission to adopt the Recommended Order approving the TEP Settlement.

16 DATED this 4th day of. November, 1999.

17 FENNEMORE CRAIG, P.C.

18
19 By 

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26 Climax Metals Company and Arizonans for
Electric Choice and Competition

1 ORIGINAL AND TEN COPIES
2 of the foregoing hand-delivered
3 this 4th day of November, 1999, to:

4 Arizona Corporation Commission
5 Docket Control
6 1200 West Washington Street
7 Phoenix, Arizona 85007

8 COPY OF THE FOREGOING
9 hand-delivered this 4th day
10 of November, 1999 to:

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13 Arizona Corporation Commission
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15 Phoenix, Arizona 85007

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11 COPY OF THE FOREGOING
12 mailed this 17th day of November, 1999 to:

13 Distribution List for:

14 Docket Nos. E-01933A-98-0471
15 E-01933A-97-0772
16 RE-00000C-94-0165

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